IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 24TH JANUARY 2007 / 4TH MAGHA 1928

WP(C).No. 32161 of 2006(D)

PETITIONER:

K.K.KRISHNAKAIMAL,
AGED 52 YEARS, S/O.PRABHAKARA KAIMAL,
NEDUPARAMBIL HOUSE, PUNNATHURA EAST P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS:

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1. THE DISRICT COLLECTOR,
COLLECTORATE P.O., KOTTAYAM DISTRICT.

2. THE TAHSILDAR,
TALUK OFFICE, KOTTAYAM,
KOTTAYAM DISTRICT.

3. THE GEOLOGIST,
MINING AND GEOLOGY DISTRICT OFFICE,
COLLECTORATE P.O., KOTTAYAM-2,
KOTTAYAM DISTRICT.

BY G.P. SMT.R.BINDU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF SKETCH AND PLAN ISSUED BY THE VILLAGE OFFICER, AYARKUNNAM DT.13.7.2006.

P2: TRUE COPY OF THE ORDER DT.27.11.2006 ISSUED BY R2 TO THE PETITIONER.

P3: TRUE COPY OF THE JUDGMENT IN W.P.(C) NO.17960/2006 DT.21.7.2006 OF THIS HON'BLE COURT.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.32161 of 2006

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Dated this the 24th day of January, 2007.

JUDGMENT

The petitioner applied for sketch and plan and possession certificate of his property from the second respondent for applying for mining licence for mining sand from petitioner's property. Government Pleader reported that second respondent is unable to issue it on account of general prohibition issued by the District Collector. The District Collector has issued a general ban against issuing possession certificate on the ground that mining of sand from land will cause depletion of water resource. However, no effort is made by the Government to substantiate in this court as to the basis of the Collector's assumption that mining of sand from land will affect drinking water source. I am of the view that mining may lead to tracing of fresh water source for drinking purpose. In any case when mining of sand from rivers is regulated which led to short supply and since construction is a major industry providing employment to large number of people, this court feel Government should encourage mining of sand from land wherever reserve is available which will only promote economic growth. Similar view is taken in SIVADAS V. GEOLOGIST 2003(2) KLT 312. However,

if mining causes any threat to life on account of formation of pits, revenue authorities are free to order filling with ordinary soil. In the circumstances, W.P. is disposed of with direction to the second respondent to issue Possession Certificate and sketch and plan in terms of petitioner's request, if on verification it is seen that petitioner has sand reserve in his property which could be mined. It is for respondents 1 to 3 to impose conditions as are required to protect public interest while issuing mining licence to the petitioner.

C.N.RAMACHANDRAN NAIR
Judge

pms